



## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1220

[Doc. No. AMS-LPS-15-0016]

### **Soybean Promotion and Research: Amend the Order to Adjust Representation on the United Soybean Board**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts the number of members on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the Board was last reapportioned in 2012. As required by the Soybean Promotion, Research, and Consumer Information Act (Act), membership on the Board is reviewed every 3 years and adjustments are made accordingly. This change will result in an increase in Board membership for three States, resulting in an increase in the total number of Board members from 70 to 73. These changes will be reflected in the Soybean Promotion and Research Order (Order) and will be effective for the 2016 appointment process.

**DATES:** *Effective Date:* [Insert date 1 day after date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** James Brow; Research and Promotion Division, Livestock, Poultry, and Seed Program; Agricultural Marketing Service (AMS), USDA; Room 2096-S, STOP 0249; 1400 Independence Avenue, SW.; Washington, D.C. 20250-0249; telephone 202-720-0633; fax 202-720-1125; or e-mail: [James.Brow@ams.usda.gov](mailto:James.Brow@ams.usda.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Executive Order 12866**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

### **Executive Order 12988**

This final rule was reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. This action would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1971 of the Act, a person subject to the Order may file a petition with the U.S. Department of Agriculture (USDA) stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with the law and request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The Act provides that district courts of the United States in any district in which such person is an inhabitant, or has their principal place of business, has jurisdiction to review USDA's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

### **Regulatory Flexibility Act**

AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), because it only adjusts representation on the Board to reflect changes in

production levels that have occurred since the Board was last reapportioned in 2012. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. As such, these changes will not impose a significant impact on persons subject to the program.

There are an estimated 569,998 soybean producers and an estimated 10,000 first purchasers who collect the assessment, most of whom would be considered small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.201]. SBA defines small agricultural producers as those having annual receipts of less than \$750,000.

### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the reporting and recordkeeping requirements included in 7 CFR part 1220 were previously approved by OMB and were assigned control number 0581-0093.

### **Background and proposed changes**

The Act (7 U.S.C. 6301-6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective July 9, 1991. The Order established an initial Board with 60 members. For purposes of establishing the Board, the United States was divided into 31 States and geographical units. Representation on the Board from each unit was determined by the level of production in each unit. The initial Board was appointed on July 11, 1991. The Board is comprised of soybean producers.

Section 1220.201(c) of the Order provides that at the end of each 3-year period, the Board shall review soybean production levels in the geographic units throughout the United States. The Board may recommend to the Secretary of Agriculture (Secretary) modification in the levels of production necessary for Board membership for each unit.

Section 1220.201(d) of the Order provides that at the end of each 3-year period, the Secretary must review the volume of production of each unit and adjust the boundaries of any unit and the number of Board members from each such unit as necessary to conform with the criteria set forth in §1220.201(e): (1) To the extent practicable, States with annual average soybean production of less than 3,000,000 bushels shall be grouped into geographically contiguous units, each of which has a combined production level equal to or greater than 3,000,000 bushels, and each such group shall be entitled to at least one member on the Board; (2) units with at least 3,000,000 bushels, but fewer than 15,000,000 bushels shall be entitled to one board member; (3) units with 15,000,000 bushels or more but fewer than 70,000,000 bushels shall be entitled to two Board members; (4) units with 70,000,000 bushels or more but fewer than 200,000,000 bushels shall be entitled to three Board members; and (5) units with 200,000,000 bushels or more shall be entitled to four Board members.

The Board was last reapportioned in 2012. The total Board membership increased from 69 to 70 members, with Mississippi gaining one additional member. The final rule was published in the Federal Register (74 FR 27467) on January 2, 2013. This change was effective with the 2013 appointments.

Currently, the Board has 70 members representing 31 geographical units. This membership is based on average production levels for the years 2007-2011 (excluding crops in

years that production was the highest and production was the lowest) as reported by USDA's National Agricultural Statistics Service (NASS).

This final rule increases total membership on the Board from 70 to 73. Production data for the years 2010-2014 (excluding the crops in years in which production was the highest and in which production was the lowest) was gathered from NASS. This change will not affect the number of geographical units. The NASS information combines the production from the Western and Eastern Regions into one production data without distinguishing between the two regions. The NASS data does not support a change in membership for either region. As such, this final rule will leave the membership of both regions unchanged with one member each.

This final rule adjusts representation on the Board as follows:

State	Current Representation	New Representation
Missouri	3	4
New Jersey	0	1
Wisconsin	2	3

Board adjustments will become effective with the 2016 appointment process.

**Comments:**

A proposed rule was published in the Federal Register (80 FR 34325) on June 16, 2015, with a 60-day comment period. USDA received no comments.

During the drafting of this final rule, AMS found a typographical error in the table titled “§1220.201 Membership of board” as presented in the proposed rule. The table showed the State of Georgia with two representatives on the Board. Based on production, Georgia is currently entitled to one member. As a result, AMS has corrected the table in this final rule to reflect Georgia with one member rather than two. This correction does not impact the makeup of the Board or this reapportionment.

## List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, part 1220 is amended as follows:

### **PART 1220-SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION**

1. The authority citation for 7 CFR Part 1220 continues to read as follows:

**Authority:** 7 U.S.C. 6301-6311 and 7 U.S.C. 7401.

2. In §1220.201, the table immediately following paragraph (a) is revised to read as follows:

#### **§1220.201 Membership of Board.**

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Unit	No. of Members
Illinois . . . . .	4
Iowa . . . . .	4
Minnesota. . . . .	4
Indiana. . . . .	4
Nebraska . . . . .	4
Ohio . . . . .	4
Missouri . . . . .	4
Arkansas . . . . .	3
South Dakota . . . . .	3
Kansas . . . . .	3
Michigan . . . . .	3
North Dakota . . . . .	3
Mississippi. . . . .	3
Wisconsin. . . . .	3
Louisiana. . . . .	2
Tennessee. . . . .	2
North Carolina . . . . .	2
Kentucky . . . . .	2

Pennsylvania . . . . .	2
Virginia . . . . .	2
Maryland . . . . .	2
Georgia. . . . .	1
South Carolina . . . . .	1
Alabama. . . . .	1
Delaware . . . . .	1
Texas. . . . .	1
Oklahoma . . . . .	1
New York . . . . .	1
New Jersey. . . . .	1
Unit	No. of Members
<hr/> Eastern Region (Massachusetts, Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico. .	1
Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska). . . . .	1

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Dated: October 19, 2015

Rex A. Barnes  
Associate Administrator

BILLING CODE 3410-02 P

[FR Doc. 2015-26952 Filed: 10/21/2015 08:45 am; Publication Date: 10/22/2015]